

SENATE BILL 512

C7

EMERGENCY BILL

11r2279
CF HB 565

By: **Senators Edwards and Miller**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2011

CHAPTER _____

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals**

3 FOR the purpose of prohibiting the Video Lottery Facility Location Commission from
4 awarding a video lottery operation license for a location in Allegany County
5 unless an applicant agrees to purchase the Rocky Gap Lodge and Resort;
6 authorizing an individual or business entity that has been awarded or issued a
7 video lottery operation license to own an interest in a video lottery facility in
8 Allegany County, subject to certain approvals; restricting access to a video
9 lottery facility in Allegany County from the Rocky Gap Lodge and Resort if
10 video lottery terminals are permanently located in the Rocky Gap Lodge and
11 Resort; requiring the holder of a video lottery operation license in Allegany
12 County to provide for meeting space in the Rocky Gap Lodge and Resort under
13 certain circumstances; altering the distributions of video lottery terminal
14 proceeds from a video lottery facility in Allegany County; repealing certain
15 provisions relating to a distribution of video lottery terminal proceeds to a video
16 lottery operation licensee in Allegany County; waiving the initial license fee for
17 an application submitted for a video lottery operation license in Allegany
18 County for up to a certain number of video lottery terminals; providing that the
19 calculation of the direct investment requirement for an application submitted
20 for a video lottery operation license in Allegany County shall include the
21 purchase price of the Rocky Gap Lodge and Resort, subject to a determination
22 by the Video Lottery Facility Location Commission; exempting certain video
23 lottery terminals and certain associated equipment and software from the
24 property tax; defining certain terms; repealing certain obsolete provisions;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 making this Act an emergency measure; and generally relating to the operation
2 of video lottery terminals in the State.

3 BY repealing and reenacting, with amendments,
4 Article – State Government
5 Section 9–1A–05(a) and (d), 9–1A–11(d), 9–1A–27(a) and (b), and 9–1A–36(h)(1)
6 and (j)
7 Annotated Code of Maryland
8 (2009 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, without amendments,
10 Article – State Government
11 Section 9–1A–11(b) and (c)
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2010 Supplement)

14 BY adding to
15 Article – Tax – Property
16 Section 7–211(i)
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2010 Supplement)

19 Preamble

20 WHEREAS, The Rocky Gap Lodge and Resort in the Rocky Gap State Park was
21 originally constructed as a family–friendly tourist destination and as an economic
22 development and employment opportunity for the residents of Allegany County and
23 neighboring counties; and

24 WHEREAS, The State of Maryland and Allegany County have invested
25 significant resources in developing and maintaining the Rocky Gap Lodge and Resort
26 as a destination location for both Maryland residents and out–of–state visitors; and

27 WHEREAS, Recognizing the unique challenges facing the continued viability of
28 the Rocky Gap Lodge and Resort, the General Assembly selected a location within the
29 Rocky Gap State Park in Allegany County as one of the five locations for video lottery
30 terminals in the State, which was subsequently approved by the voters of the State;
31 and

32 WHEREAS, While the addition of video lottery terminals at the Rocky Gap
33 Lodge and Resort will provide much needed revenues to the State and Allegany
34 County, it is still desired that Rocky Gap remain a family–friendly resort and area;
35 and

36 WHEREAS, It is in the best interests of the State of Maryland and Allegany
37 County to have a successful video lottery facility, hotel, and resort at Rocky Gap; now,
38 therefore,

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Government**

4 9–1A–05.

5 (a) The Video Lottery Facility Location Commission established under §
6 9–1A–36 of this subtitle may not:

7 (1) award more than five video lottery operation licenses;

8 (2) award more than 15,000 video lottery terminals for operation at
9 video lottery facilities in the State; [and]

10 (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,
11 award more than 4,750 terminals for operation at any video lottery facility; **AND**

12 **(4) FOR A LOCATION IN ALLEGANY COUNTY, AWARD A VIDEO**
13 **LOTTERY OPERATION LICENSE TO AN APPLICANT THAT DOES NOT AGREE TO**
14 **PURCHASE THE ROCKY GAP LODGE AND RESORT.**

15 (d) (1) In this subsection, “owner” includes any type of owner or
16 beneficiary of a business entity, including an officer, director, principal employee,
17 partner, investor, stockholder, or beneficial owner of the business entity and,
18 notwithstanding any other provisions of this subtitle, including a person having any
19 ownership interest regardless of the percentage of ownership interest.

20 (2) **[An] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
21 **SUBSECTION, AN** individual or business entity may not own an interest in more than
22 one video lottery facility.

23 (3) A member of the Senate of Maryland or the House of Delegates
24 may not be an owner or an employee of any business entity that holds a video lottery
25 operation license.

26 (4) Notwithstanding paragraphs (1) and (2) of this subsection, an
27 individual or business entity **THAT HAS BEEN AWARDED OR ISSUED A VIDEO**
28 **LOTTERY OPERATION LICENSE UNDER THIS SUBTITLE** may **OWN AN INTEREST IN**
29 **OR** enter into a management agreement to operate a facility located in Allegany
30 County [that it does not own], subject to the approval of the Video Lottery Facility
31 Location Commission and the State Lottery Commission.

32 9–1A–11.

1 (b) (1) Except as provided in paragraph (2) of this subsection, a licensee
2 shall commence operation of video lottery terminals in a permanent facility at the
3 location for which the video lottery operation license has been awarded within 18
4 months after the license is awarded.

5 (2) (i) On a determination by the Commission that extenuating
6 circumstances exist that are beyond the control of an awardee and have prevented the
7 awardee from complying with the requirements of paragraph (1) of this subsection, the
8 Commission may allow the awardee an extension of 6 months to comply with the
9 requirements.

10 (ii) The Commission may not grant more than two extensions to
11 an awardee under this paragraph.

12 (3) If a video lottery operation awardee fails to comply with the
13 requirements of this subsection, the license awarded to the awardee shall be revoked
14 and shall automatically revert to the State.

15 (c) (1) Nothing in this subtitle may be construed to prohibit a video
16 lottery operation licensee that is issued a license from beginning video lottery terminal
17 operations in a temporary facility that meets the minimum requirements established
18 in regulations adopted by the State Lottery Commission.

19 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
20 a video lottery operation licensee shall be operational in a permanent facility no later
21 than 30 months after the award of the video lottery operation license.

22 (d) **(1)** For a location in Allegany County, [video lottery terminals may be
23 temporarily] **IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY** located in the
24 Rocky Gap Lodge and Resort [until a permanent facility is constructed, subject to the
25 requirements of subsection (b) of this section], **THE LICENSEE SHALL RESTRICT**
26 **PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM THE ROCKY GAP**
27 **LODGE AND RESORT.**

28 **(2) (i)** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
29 **FOR A LOCATION IN ALLEGANY COUNTY, IF VIDEO LOTTERY TERMINALS ARE**
30 **PERMANENTLY LOCATED IN THE ROCKY GAP LODGE AND RESORT AND**
31 **EXISTING MEETING SPACE IS ELIMINATED AS A RESULT OF THE VIDEO LOTTERY**
32 **TERMINALS, THE LICENSEE SHALL PROVIDE FOR MEETING SPACE THAT IS**
33 **ACCESSIBLE FROM THE ROCKY GAP LODGE AND RESORT WITHIN 36 MONTHS**
34 **AFTER ISSUANCE OF THE VIDEO LOTTERY OPERATION LICENSE, SUBJECT TO**
35 **THE APPROVAL OF THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND**
36 **THE STATE LOTTERY COMMISSION.**

1 **(II) THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO**
 2 **THE VIDEO LOTTERY FACILITY FROM ANY MEETING SPACE PROVIDED UNDER**
 3 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

4 9–1A–27.

5 (a) ~~On~~ **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON**
 6 a properly approved transmittal prepared by the Commission, the Comptroller shall
 7 pay the following amounts from the proceeds of video lottery terminals at each video
 8 lottery facility:

9 (1) 2% to the State Lottery Agency for costs as defined in § 9–1A–01 of
 10 this subtitle;

11 (2) ~~except as provided in subsection (b) of this section,~~ to the video
 12 lottery operation licensee, the percentage stated in the accepted application for the
 13 location, not to exceed 33%;

14 (3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this
 15 subtitle;

16 (4) 7% to the Purse Dedication Account established under § 9–1A–28
 17 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

18 (5) (i) ~~Except as provided in item (ii) of this item,~~ for the first 8
 19 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal
 20 Account established under § 9–1A–29 of this subtitle, not to exceed a total of
 21 \$40,000,000 to the Account annually;

22 (ii) ~~for the first 5 years of operations at a video lottery facility in~~
 23 ~~Allegany County, 2.5% to the video lottery operation licensee [that satisfies the~~
 24 ~~requirement under subsection (b) of this section]~~ **IN ALLEGANY COUNTY;**

25 (6) 1.5% to the Small, Minority, and Women–Owned Businesses
 26 Account established under § 9–1A–35 of this subtitle; and

27 (7) the remainder to the Education Trust Fund established under §
 28 9–1A–30 of this subtitle.

29 (b) **(1)** For the first ~~5~~ **10** years of operations at a video lottery facility in
 30 Allegany County, ~~the Comptroller shall pay to the video lottery operation licensee~~ **IN**
 31 **ALLEGANY COUNTY,** ~~on a properly approved transmittal prepared by the~~
 32 ~~Commission, the percentages authorized in subsection (a)(2) and (5)(ii) of this section~~
 33 ~~as stated in the accepted application for the location], if the applicant that is awarded~~
 34 ~~the video lottery operation license agrees to purchase the Rocky Gap Lodge and~~
 35 ~~Resort]~~ **ON A PROPERLY APPROVED TRANSMITTAL PREPARED BY THE**

1 COMMISSION, THE COMPTROLLER SHALL PAY THE FOLLOWING AMOUNTS FROM
2 THE PROCEEDS OF VIDEO LOTTERY TERMINALS AT A VIDEO LOTTERY FACILITY
3 IN ALLEGANY COUNTY:

4 (I) 2% TO THE STATE LOTTERY AGENCY FOR COSTS AS
5 DEFINED IN § 9-1A-01 OF THIS SUBTITLE;

6 (II) TO THE VIDEO LOTTERY OPERATION LICENSEE, THE
7 PERCENTAGE STATED IN THE ACCEPTED APPLICATION FOR THE LOCATION, NOT
8 TO EXCEED 50%;

9 (III) 2.75% IN LOCAL IMPACT GRANTS, IN ACCORDANCE
10 WITH § 9-1A-31 OF THIS SUBTITLE;

11 (IV) 2.5% TO THE PURSE DEDICATION ACCOUNT
12 ESTABLISHED UNDER § 9-1A-28 OF THIS SUBTITLE;

13 (V) 0.75% TO THE SMALL, MINORITY, AND WOMEN-OWNED
14 BUSINESSES ACCOUNT ESTABLISHED UNDER § 9-1A-35 OF THIS SUBTITLE; AND

15 (VI) THE REMAINDER TO THE EDUCATION TRUST FUND
16 ESTABLISHED UNDER § 9-1A-30 OF THIS SUBTITLE.

17 (2) AFTER THE FIRST 10 YEARS OF OPERATIONS AT A VIDEO
18 LOTTERY FACILITY IN ALLEGANY COUNTY, THE PROCEEDS GENERATED AT THE
19 FACILITY IN ALLEGANY COUNTY SHALL BE ALLOCATED AS PROVIDED IN
20 SUBSECTION (A) OF THIS SECTION.

21 9-1A-36.

22 (h) (1) In order to qualify for a video lottery operation license under this
23 section, a proposed video lottery facility shall be located in one of the following
24 counties:

25 (i) a location in Anne Arundel County, within 2 miles of MD
26 Route 295;

27 (ii) a location in Cecil County, within 2 miles of Interstate 95;

28 (iii) [except as provided in § 9-1A-11(d) of this subtitle,] a
29 location on State property associated with the Rocky Gap State Park in Allegany
30 County [that shall be in a separate building that may be adjacent or connected to the
31 Rocky Gap Lodge and Golf Resort];

1 (iv) a location in Worcester County, within 1 mile of the
2 intersection of Route 50 and Route 589; or

3 (v) a location in Baltimore City that is:

4 1. located:

5 A. in a nonresidential area;

6 B. within one-half mile of Interstate 95;

7 C. within one-half mile of MD Route 295; and

8 D. on property that is owned by Baltimore City on the
9 date on which the application for a video lottery operation license is submitted; and

10 2. not adjacent to or within one-quarter mile of property
11 that is:

12 A. zoned for residential use; and

13 B. used for a residential dwelling on the date the
14 application for a video lottery operation license is submitted.

15 (j) (1) **(I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**
16 **THIS PARAGRAPH, AN** application submitted for a video lottery operation license
17 under this section shall include an initial license fee in the application of at least
18 \$3,000,000 for each 500 video lottery terminals included in the application.

19 **(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO**
20 **LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE INITIAL LICENSE**
21 **FEE FOR UP TO 500 VIDEO LOTTERY TERMINALS SHALL BE WAIVED.**

22 (2) All initial license fees submitted under this subtitle shall accrue to
23 the Education Trust Fund established under § 9-1A-30 of this subtitle.

24 (3) **(I)** An application submitted for a video lottery operation
25 license under this section shall provide for at least \$25,000,000 in direct investment by
26 the applicant in construction and related costs for each 500 video lottery terminals
27 contained in the proposed application that shall be prorated based on the exact
28 number of video lottery terminals contained in the application.

29 **(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO**
30 **LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE PURCHASE PRICE**
31 **FOR THE ROCKY GAP LODGE AND RESORT SHALL BE COUNTED IN THE**
32 **CALCULATION OF THE APPLICANT'S DIRECT INVESTMENT UNDER THIS**

1 PARAGRAPH, AS DETERMINED BY THE VIDEO LOTTERY FACILITY LOCATION
2 COMMISSION.

3 Article – Tax – Property

4 7-211.

5 (I) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE
6 THE MEANINGS INDICATED.

7 (II) “ASSOCIATED EQUIPMENT” HAS THE MEANING STATED
8 IN § 9-1A-01 OF THE STATE GOVERNMENT ARTICLE.

9 (III) “VIDEO LOTTERY TERMINAL” HAS THE MEANING
10 STATED IN § 9-1A-01 OF THE STATE GOVERNMENT ARTICLE.

11 (2) VIDEO LOTTERY TERMINALS AND ANY ASSOCIATED
12 EQUIPMENT OR SOFTWARE OWNED OR LEASED BY THE STATE LOTTERY
13 COMMISSION AS PROVIDED IN § 9-1A-21 OF THE STATE GOVERNMENT
14 ARTICLE ARE NOT SUBJECT TO PROPERTY TAX.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety,
17 has been passed by a yea and nay vote supported by three-fifths of all the members
18 elected to each of the two Houses of the General Assembly, and shall take effect from
19 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.